



19 SEP 2006

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In re Application of	:	
SUN et al.	:	
Application No.: 10/540,599	:	DECISION ON PETITION
PCT No.: PCT/CN03/01110	:	
Int. Filing Date: 24 December 2003	:	UNDER
Priority Date: 24 December 2002	:	
Attorney Docket No.: NTD/9004	:	37 CFR 1.497(d)
For: A TWO-COMPONENT WET CEMENT,	:	
PROCESS AND APPLICATION THEREOF	:	

This decision is in response to applicants' "RENEWED PETITION UNDER 37 CFR § 1.497(d)" filed in the United States Patent and Trademark Office (USPTO) on 25 May 2006.

BACKGROUND

On 24 December 2003, applicants filed international application PCT/CN03/01110, which designated the United States and claimed a priority date of 24 December 2002. A copy of the international application was communicated to the USPTO from the International Bureau on 15 July 2004. The thirty-month period for paying the basic national fee in the United States expired at midnight on 24 June 2005.

On 24 June 2005, applicants filed a transmittal letter for entry into the national stage in the United States which was accompanied by, *inter alia*, the basic national fee and an assertion of small entity status.

On 21 November 2005, the United States Designated/Elected Office (DO/EO/US) mailed a NOTIFICATION OF MISSING REQUIREMENTS UNDER 35 U.S.C. 371 (Form PCT/DO/EO/905) indicating, *inter alia*, that an oath or declaration of the inventors in compliance with 37 CFR 1.497(a)-(b) and the surcharge under 37 CFR 1.492(e) for providing the oath or declaration later than thirty months from the priority date were required.

On 16 January 2006, applicants submitted a "REQUEST TO CORRECT INVENTORSHIP UNDER 37 C.F.R. §1.48(a)". The petition was accompanied by a declaration of inventors and statements from each person being removed as an inventor.

On 26 January 2006, the DO/EO/US mailed a second NOTIFICATION OF MISSING REQUIREMENTS UNDER 35 U.S.C. 371 (Form PCT/DO/EO/905) indicating, *inter alia*, that an oath or declaration of the inventors in compliance with 37 CFR 1.497(a)-(b) and the surcharge under 37 CFR 1.492(e) for providing the oath or declaration later than thirty months from the priority date were required.

On 08 February 2006, applicants submitted a "RESPONSE TO NOTIFICATION OF MISSING REQUIREMENTS" which included a copy of the submission filed 16 January 2006.

On 07 April 2006, a decision was mailed treating applicants' "REQUEST TO CORRECT INVENTORSHIP UNDER 37 C.F.R. §1.48(a)" as a petition under 37 CFR 1.497(d). The decision dismissed applicants' petition without prejudice because applicants had not provided the consent of the assignee. The decision also vacated the second NOTIFICATION OF MISSING REQUIREMENTS UNDER 35 U.S.C. 371 mailed 26 January 2006 because it was mailed in error.

On 25 May 2006, applicants filed the instant "RENEWED PETITION UNDER 37 CFR § 1.497(d)".

DISCUSSION

37 CFR 1.497(d), provides:

(d) If the oath or declaration filed pursuant to 35 U.S.C. 371(c)(4) and this section names an inventive entity different from the inventive entity set forth in the international application, or if a change to the inventive entity has been effected under PCT Rule 92^{bis} subsequent to the execution of any oath or declaration which was filed in the application under PCT Rule 4.17(iv) or this section and the inventive entity thus changed is different from the inventive entity identified in any such oath or declaration, applicant must submit:

- (1) A statement from each person being added as an inventor and from each person being deleted as an inventor that any error in inventorship in the international application occurred without deceptive intention on his or her part;
- (2) The processing fee set forth in Sec. 1.17(I); and
- (3) If an assignment has been executed by any of the original named inventors, the written consent of the assignee (see Sec. 3.73(b) of this chapter); and
- (4) Any new oath or declaration required by paragraph (f) of this section.

As noted in the decision mailed 07 April 2006, applicants have satisfied items (1) and (2) and item (4) is not required. Applicants have now satisfied item (3) as well.

The declaration of inventors filed 16 January 2006 is in compliance with 37 CFR 1.497(a)-(b).

CONCLUSION

The request under 37 CFR 1.497(d) is **GRANTED** for the reasons set forth above.

This application is being forwarded to the National Stage Processing Branch of the Office of PCT Operations to continue national stage processing of the application in accordance with this decision including processing the application in the name of Henghu SUN, Weirui XU, Guangju GAI, Shuqin LI, and Yuefeng XU as inventors.



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